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FISCAL IMPACT REPORT

ORIGINAL DATE 1/28/07
 LAST UPDATED 2/09/07 HB 493/aHLC

SPONSOR Maestas

SHORT TITLE Workers' Comp Benefits For Incarcerated SB _____

ANALYST Propst

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	Minimal to moderate	Minimal to moderate	Minimal to moderate	Minimal to moderate	Recurring	General, and possibly other state funds

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Corrections (DC)
 General Services Department (GSD)

SUMMARY

Synopsis of HLC Amendment

The House Labor and Human Resources Committee amendment added the word ‘indemnity’ to the original ‘workers’ compensation benefits’ to now read, “workers’ compensation indemnity benefits.”

The committee amendment added, “Court-ordered garnishment of indemnity benefits for child support benefits in effect during any portion of the incarceration period shall remain in force, and that portion of indemnity benefits shall be paid to the appropriate state agency or recipient, per court order. Payment of benefits shall resume upon the worker’s release from incarceration.”

Synopsis of Original Bill

House Bill 493 amends the Workers’ Compensation Act to prevent Department of Corrections inmates (and jail inmates as well) from receiving workers’ compensation benefits while incarcerated, if prior to the date of maximum medical improvement, the injured worker enters a correctional facility or detention facility as a result of a criminal conviction (felony or a misdemeanor).

FISCAL IMPLICATIONS

The bill could have a minimal to moderate fiscal impact on the Department, as explained in the Significant Issues section below.

SIGNIFICANT ISSUES

According to the Department of Corrections, under current law, prison inmates injured while working for the state (in prison) as porters, kitchen staff, etc. are not entitled to workers' compensation benefits.

However, prison inmates participating in work release programs (generally those who work for private employers during the day and return to prison) who are injured at work are entitled to workers' compensation benefits. The Department currently has about ten female prisoners working for a private tortilla factory in Albuquerque, and has tentative plans to expand its work release program for female, low risk offenders. If HB 493 becomes law, these women may no longer be entitled to workers' compensation benefits while in prison. The Corrections Department would have to compensate any female prisoner injured in the work release program outside of the states workers' compensation system.

The General Services Department noted that, HB 493 does not identify how the employer would know to suspend benefit payments to an injured worker who becomes incarcerated or how the correctional facility or detention center would know to notify an employer that someone who is receiving workers compensation benefits is incarcerated.

Further, GSD reports that the effect of HB 493 would be to suspend payment, if the employer knows the injured worker becomes incarcerated, but the injured employee's eligibility for temporary total disability payments up to 500 weeks would not be reduced.

ADMINISTRATIVE IMPLICATIONS

The Department notes that it does not have substantive training or experience in evaluating, treating, rehabilitating, or resolving injured inmate workers' injuries and claims, which is generally within the Workers' Compensation Administration scope of expertise. The Department further notes that there is no appropriation in HB 493 to enable the Department to evaluate and treat inmates who have been injured in work release programs. The Department is unsure of the impact of passage of HB 493 would have on its plans to continue or expand its work release program.

WEP/nt:csd